

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

\*\*\*\*\*

BONNIE CASTRO,	)	
CHARGING PARTY,	)	
	)	CASE NO. 0005009172
vs.	)	
	)	ORDER SUSTAINING
CITY OF BILLINGS POLICE DEPT,	)	OBJECTION AND
RESPONDENT.	)	REMANDING FOR HEARING

\*\*\*\*\*

The above-captioned matter came before the Montana Human Rights Commission (Commission) on October 23, 2000. The matter was before the Commission for consideration of charging party's objection to the notice of dismissal and notice of right to file civil action in district court issued by the Human Rights Bureau. Appearing before the Commission on October 23, 2000, were Beth Brenneman for the charging party and Harlan Krogh for the respondent.

After consideration of the record and arguments advanced by the parties, the Commission sustains the objection of the charging party and remands the matter for a hearing. In remanding the matter for a hearing, the Commission finds that the investigator relied on information provided by the respondent that contained unexplained discrepancies and modifications. The Commission finds that the investigator's finding of no reasonable cause to believe unlawful discrimination on account of race occurred is not supported by the record. Accounts of the time at which respondent stopped charging party, the number of times she circled the block, the necessity for respondent's bringing in drug-sniffing dogs, the rationale for respondent's asserting that charging party's license was expired and other details about respondent's alleged racial profiling are in need of clarification. The present matter calls for credibility determinations of the witnesses who were interviewed by the investigator only by telephone, as well as a more thorough examination of the facts of the case. The best way to develop the record and to make credibility determinations is through a contested case hearing during which the parties can present their respective case fully and call witnesses who will be subject to cross examination.

The Commission finds that the record was not fully developed and crucial credibility determinations are yet to be made. A contested case hearing is the proper avenue to develop the matter.

IT IS HEREBY ORDERED, that the charging party's objections are sustained and the matter is remanded to the Department for a contested case hearing.

Dated this \_8th\_ day of November, 2000

---

Gloria "Patt" Etchart, Chair, Montana Human Rights Commission

## CERTIFICATE OF SERVICE

The undersigned employee of the Human Rights Bureau certifies that a true copy of the foregoing **ORDER SUSTAINING OBJECTION AND REMANDING FOR HEARING** was served on the following persons by U. S. Mail, postage prepaid on the 8th day of November, 2000.

BONNIE CASTRO  
1103 S 28<sup>TH</sup> ST  
BILLINGS MT 59101

ELIZABETH BRENNEMAN  
ACLU  
POWER BLOCK W STE 4E  
HELENA MT 59601

TIMOTHY KELLY  
PO BOX 65  
EMIGRANT MT 59027

BILLINGS POLICE DEPARTMENT  
PO Box 1554  
BILLINGS MT 59103

VICKI NELSON  
MOULTON BELLINGHAM LONGO & MATHER  
PO BOX 2559  
BILLINGS MT 59103-2559

---